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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,649	03/09/2004	Darin D. Tuttle	AUTO 406	2200

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EXAMINER

LEE, Y MY QUACH

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/796,649

Applicant(s)

TUTTLE ET AL.

Examiner

Lee Y Quach

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-73 is/are pending in the application.
- 4a) Of the above claim(s) 15-29, 45-47, 49 and 67-69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 14, 30-40, 44, 48, 50-58, 65, 66, 72 and 73 is/are rejected.
- 7) ☒ Claim(s) 8-13, 41-43, 59-64, 70 and 71 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/10/04 &amp; 1/23/06</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION*****Response to Arguments***

1. Applicant's election with traverse to the restriction and election of species requirement in the reply filed on February 23, 2006 is acknowledged. The traversal is on the ground that the restriction is not proper because the pending claims do not define the related inventions in the meaning of MPEP 806.05 and Applicant cited an example of AB<sub>sp</sub>/B<sub>sp</sub> to support the traversal. This is not found persuasive. It should be noted that the pending claims define the related inventions in the meaning of MPEP 806.05 because the pending claims are related to AB<sub>br</sub>/B<sub>sp</sub>. The pending combination claims do not claim the specific detail structures of the optical block such as the light rays directed toward the deviator that pass a first deviator edge do not directly impinge upon the first deviator segment, the light rays directed toward the deviator that pass the first deviator edge do not directly impinge upon a second deviator segment, all of the light rays directed toward the deviator portion reflected off of a third deviator segment before being refracted from a first deviator segment, a third portion defining a substantially convex shape and ... as claimed in claims 15 and plus. Accordingly, claims 15 to 29 are withdrawn from further consideration, the restriction as indicated is proper and therefore made final. Applicant also stated that the election of species requirement is improper because the pending claims do not define mutually exclusive characteristics of the present invention because all of the claims recite open language due to the transitional phrase "comprising" ..... This is not found persuasive. It should be noted that, for instance, drawing figures 3a-3b depict an interior rearview mirror while figures 2a-2e depict an exterior rearview mirror having turn signal indicator ... They are therefore patentably distinct species. Since pending claims 45 to 47, 49 and 67 to 69 are not directed to drawing figures 2a-2e, species I, as elected with traverse by applicant but are directed to the interior rearview mirror, claims 45 to 47, 49 and 67 to 69 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species. Accordingly, the requirement is still deemed proper and is therefore made final.

***Specification***

2. The disclosure is objected to because of the following informalities: Paragraph 0030, the language "What *are provided are* improved ..." is improper. Page 3, line 1, the description

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“approximately 25 degrees” is inaccurate, shouldn’t be approximately -25 degrees? The reference numeral “240f5” is used for two separate elements, --spacers-- on line 8 of paragraph 0034, and --optical block locators-- on lines 9 to 10 of paragraph 0034. Page 11, lines 2 and 27, the description “approximately 3 degrees” is inaccurate, shouldn’t be approximately -3 degrees? Appropriate correction is required.

### ***Claim Objections***

3. Claims 1 to 14 and 52 to 73 are objected to because of the following formalities: In claim 1, line 8, the language “approximately 10 degrees” is inaccurate, shouldn’t be approximately -10 degrees? Claims 2 to 14 depend on objected claim 1 and as such are also objected. In claim 52, line 5, the language “approximately 10 degrees” is inaccurate, shouldn’t be approximately -10 degrees? Claims 53 to 66 and 70 to 73 depend on objected claim 52 and as such are also objected. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 to 7, 14, 30 to 36, 48, 50 to 58, 65, 66, 72 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pastrick et al. (prior art cited by applicant).

Pastrick et al. disclose an indicator having at least one light source (30, 32, 60, 60d) for emitting light rays having a central optical axis, an optics block (figures 10 to 15) configured to direct substantially all of the light rays to define a horizontal beam pattern (72) directed from approximately 0 degrees to approximately 60 degrees including approximately 32 degrees outboard away from a controlled vehicle (figures 13 to 14) with respect to the central optical axis, the optics block further configured to direct substantially all of the light rays to define a vertical beam pattern (66) directed from approximately -8 degrees to approximately 10 degrees with respect to the central optical axis (figures 10 to 12, note that the beam pattern 66 directs from approximately 0 degrees to approximately more than -10 degrees, the light rays defining the vertical beam pattern as claimed would obviously be included in this angle), and an electro

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optic (column 3, line 55) mirror element (28) comprising a reflective area through which substantially all of the light rays pass. Note also that luminance measurement of the light source is depending on the type of light sources rather than the angle of the light pattern, and since the light source is a light emitting diode, a minimum of approximately 5, 4, 3 candelas are measurable within different angles as claimed whether it is vertical or horizontal.

6. Claims 30 to 40, 44 and 48, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muth et al. (prior art cited by applicant).

Muth et al. disclose an apparatus comprising a signal indicator having at least one light source (122) for emitting light rays having a central optical axis, an optics block (70, figures 5 and 6) configured to direct substantially all of the light rays to define a horizontal beam pattern (33) directed from approximately 0 degrees to approximately 60 degrees including approximately 32 degrees outboard away from a controlled vehicle (figure 4, column 5, line 6, column 6, lines 3, 4, 7, 34, 35) with respect to the central optical axis, at least one collimating portion (90), at least one deviator portion (80), the collimating portion and the deviator portion substantially aligned with one another, this apparatus configured as an exterior rearview mirror assembly that swivels such that the light rays are directed in a first direction prior to mirror swivel and another direction subsequent to mirror swivel (figure 6, the light source is attached to the mirror, movement of the mirror changes the direction of the light rays), the mirror swivel automatically (column 5, line 22, remote controlled by motorized actuator), and an electro optic (column 5, line 39) mirror element (60) comprising a reflective area through which substantially all of the light rays pass. Note also that luminance measurement of the light source is depending on the type of light sources rather than the angle of the light pattern, and since the light source is a light emitting diode, a minimum of approximately 5, 4, 3 candelas are measurable within different angles as claimed whether it is vertical or horizontal.

7. Claims 52, 54, 55, 66 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall.

Hall discloses an apparatus comprising a signal indicator having at least one light source (9) for emitting light rays having a central optical axis, an optics block (figures 1 to 4) configured to direct substantially all of the light rays to define a vertical beam pattern directed from

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approximately -8 degrees to approximately -10 degrees with respect to the central optical axis (figures 1 to 4, note that the vertical beam pattern directs from approximately 0 degrees to approximately more than -10 degrees, the light rays defining the vertical beam pattern as claimed would obviously be included in this angle), and the apparatus configures as a rearview mirror comprising a mirror element (5) comprising a reflective (6) having an area (7) through which substantially all of the light rays pass.

8. Claims 8 to 13 and 41 to 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


9. Claims 59 to 64, 70 and 71 would be allowable if rewritten to overcome the objection set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y Quach Lee whose telephone number is 571-272-2373. The examiner can normally be reached on Tuesday and Thursday from 8:30 am to 4:30 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is 571-272-2815.

Y.Q.  
May 11, 2006

  
Y Quach Lee  
Primary Examiner  
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